

DUSKY *v.* UNITED STATES.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

No. 504, Misc. Decided April 18, 1960.

Certiorari granted.

Since the record in this case does not sufficiently support the findings of petitioner's competency to stand trial, the judgment affirming his conviction is reversed and the case is remanded to the District Court for a hearing to determine his present competency to stand trial, and for a new trial if he is found competent. Pp. 402-403.

271 F. 2d 385, reversed.

*James W. Benjamin* for petitioner.

*Solicitor General Rankin* for the United States.

PER CURIAM.

The motion for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. Upon consideration of the entire record we agree with the Solicitor General that "the record in this case does not sufficiently support the findings of competency to stand trial," for to support those findings under 18 U. S. C. § 4244 the district judge "would need more information than this record presents." We also agree with the suggestion of the Solicitor General that it is not enough for the district judge to find that "the defendant [is] oriented to time and place and [has] some recollection of events," but that the "test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has a rational as well as factual understanding of the proceedings against him."

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In view of the doubts and ambiguities regarding the legal significance of the psychiatric testimony in this case and the resulting difficulties of retrospectively determining the petitioner's competency as of more than a year ago, we reverse the judgment of the Court of Appeals affirming the judgment of conviction, and remand the case to the District Court for a new hearing to ascertain petitioner's present competency to stand trial, and for a new trial if petitioner is found competent.

*It is so ordered.*

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IZZO *v.* ILLINOIS.

APPEAL FROM THE SUPREME COURT OF ILLINOIS.

No. 772, Misc. Decided April 18, 1960.

Appeal dismissed and certiorari denied.

PER CURIAM.

The appeal is dismissed. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari is denied.